



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Ms. Robin Nelson
Environmental & Safety Specialist
4282 Sullivan Slough Rd
Burlington, IA 52601
robinnelson@alliantenergy.com

SENT BY EMAIL ONLY

SUBJECT: Notice of Potential Violation and Opportunity to Confer
Burlington Generating Station Coal Combustion Residual Units Operated
by Alliant Energy

Dear Ms. Nelson:

The purpose of this letter is to raise to your attention potential compliance issues U.S. EPA staff have detected based on a review of the Burlington Station's ("the facility") Notice of Intent to obtain an extension for the closure deadline under Section 257.103(a) of the Coal Combustion Residuals (CCR) Rule at 40 C.F.R. Part 257, Subpart D. As described more fully below, EPA is offering you the opportunity to confer about the issues contained in this letter and the opportunity to submit additional information that you think is relevant to these issues and should be considered.

Section 257.103 of the CCR Rule allows facilities that have units that are required to close to obtain an extension of the closure deadline and continue to receive CCR provided the requirements in that section are met. These requirements include preparing documentation that describes and supports the basis for needing the extension and placing such documentation in the facility operating record and posting it to the facilities' CCR web site.

According to the April 17, 2019, Notice of Intent to Comply with Alternative Closure Requirements (April 17 Notice) posted on the facility CCR website, the facility is seeking an extension of the closure deadline:

There is currently an absence of available alternative disposal capacity and CCR will continue to be managed in the CCR Units until alternative capacity is developed, as allowed under 40 CFR 101(b)(4) and 103(a). This documentation has been developed in accordance with 40 CFR 257.103(a) . . .

One of the key requirements in 40 C.F.R. § 257.103(a) is the demonstration that the facility is making, and continues to make, an effort to develop alternative capacity for disposal on-site or off-site. However, in the April 17 Notice, Jeff Maxted, on behalf of Alliant Energy, states in the paragraph that purports to describe the efforts the facility is undertaking to develop alternative disposal capacity, that the facility is converting to alternative fuel or permanently retiring the coal-fired boiler. Plans to convert fuel type or permanently retire the boiler do not provide an adequate basis for the facility to qualify for the extension under Section 257.103(a). Therefore, this April 17 Notice is deficient and does not substantiate nor support the facility's intent to obtain an extension under Section 257.103(a).

Section 257.103(b), which the facility does not reference anywhere in the April 17 Notice, does allow for an extension on the basis of a decision to permanently retire the boiler at the facility (and cease generation of CCR). However, as indicated in the April 17 Notice, because the facility has not yet decided to permanently retire the boiler during the timeframes specified in the rule (and has indicated that it might instead continue to operate the boiler using alternative fuel), the Section 257.103(b) option may not be applicable here.

In the 2020 Annual Progress Report, Mr. Maxted again provides information regarding plans for boiler re-fueling or permanent retirement to demonstrate the efforts the facility has undertaken to pursue alternative capacity. Of course, these are distinct and unrelated concepts and are addressed differently in the CCR regulations. And like the 2019 initial Notice, the regulations relating to an extension based on permanent cessation of boilers (Section 257.103(b)) are not cited nor relied upon.

Additionally, it appears that at least one of the surface impoundments is receiving non-CCR wastestreams; however, neither Sections 257.103(a) nor (b) allow the continued receipt of non-CCR wastestreams.

Finally, the discussion of specific actions taken during the reporting period entirely relate to closure of the units and future management of the non-CCR wastestreams rather than the information required by Section 257.103(a)(1)(iv), which includes documentation of the progress being made towards the development of alternative CCR disposal capacity.

These substantial deficiencies in both the April 17 Notice and the 2020 Annual Progress Report clearly raise serious questions regarding whether the facility qualifies for the alternative closure requirements. In order to substantiate the need for these requirements and to demonstrate the qualification for them, facilities must prepare and post to the publicly available web site an initial notification with all required relevant and accurate information and ensure that the 2020 annual

progress report provides the facts and information that demonstrate the continued need and qualification for the alternative closure requirements of Section 257.103(a).

As you may know, on July 29, 2020, the Administrator signed a final rule revision of the CCR regulations. Among other things, the final rule establishes new alternative closure provisions at Sections 257.103(f)(1) and (f)(2). Surface impoundments currently operating under Sections 257.103(a) or (b) must either comply with the new regulations at Sections 257.103(f)(1) and (f)(2) or cease receipt of waste for those units as soon as technically feasible but not later than April 11, 2021. On August 28, 2020, the final rule was published in the *Federal Register* (85 FR 53516). The in-depth discussion of the changes to Section 257.103 begins on page 53537 of the publication.

By this letter, the EPA is extending to you an opportunity to advise the Agency, via a conference call, or in writing, of any further information the EPA should consider with respect to the potential noncompliance. Please respond within 10 calendar days of this letter informing us whether you are interested in discussing this matter and providing the Agency with additional information to consider. If you are interested in revising the required documents, we ask that you do so within 30 calendar days of this letter, or let us know why you are unable to meet that timeframe and by what date you expect to do so.

Please email your response to the attention of Pete Raack in my office at raack.pete@epa.gov. If you prefer, we can arrange a conference call to discuss these issues. If that is your preference, or if you have any questions, please email Pete Raack so we can schedule that discussion. Thank you for your attention to this matter.

Sincerely,
Davies,
Lynne

Digitally signed by Davies,
Lynne
Date: 2020.10.05
10:54:42 -04'00'

Lynne Davies
Acting Chief
Waste Enforcement Branch
Office of Civil Enforcement
US EPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Ave., NW
Mail Code 2249A
Washington, DC 20460

cc: Chad A. Stobbe - Environmental Specialist Senior, Iowa Department of Natural Resources;
Chad.Stobbe@dnr.iowa.gov; (SENT BY EMAIL ONLY)